



Secretariat of the of the UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001)

Contribution to the Report of the Secretary-General of the United Nations regarding “Capacity-building in ocean affairs and the law of the sea, including marine science”

UNESCO ACTION TO IMPROVE THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

I. INTRODUCTION

The United Nations Educational, Scientific and Cultural Organization (**UNESCO**) is a specialized agency of the UN. It contributes to building peace through culture and has the protection of cultural heritage in its mandate.

According to Article 1 paragraph 1 of the UNESCO Convention on the Protection of the Underwater Cultural Heritage “Underwater cultural heritage” means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years. This includes ancient shipwrecks, like the *Mary Rose* wreck in Portsmouth, UK, the remains of the *Armada* of Philipp II of Spain or the ships of Christopher Columbus, as well as submerged sites and buildings such as the *Pharos* of Alexandria, human traces in submerged caves or sunken prehistoric landscapes and villages. It does not include installations still in operation, natural heritage or fossils.

To improve the protection of the underwater cultural heritage UNESCO focuses on three main lines of action:

- a. **The improvement of the legal and operational protection of underwater heritage;**
- b. **Building capacity in underwater archaeology; and**
- c. **Raising awareness of underwater cultural heritage in the public.**

II. IMPROVING THE LEGAL AND OPERATIONAL PROTECTION OF UNDERWATER CULTURAL HERITAGE

The **UNESCO Convention on the Protection of the Underwater Cultural Heritage** (hereinafter “**UNESCO 2001 Convention**”) is UNESCO’s main tool to improve legal and operational protection of underwater cultural heritage. It entered into force on 2 January 2009. It has currently 31 States Parties and many more States are preparing ratification.

The Convention

- sets out **basic principles** for the protection of underwater cultural heritage;
- provides a detailed **State cooperation system**; and
- provides widely recognized **practical Rules** for the treatment and research of underwater cultural heritage.

The Convention consists of a main text and an annex, containing "Rules for activities directed at underwater cultural heritage".

The Convention has been elaborated and adopted by the Member States of UNESCO. It is an international treaty, responding to the increasing looting and destruction of underwater cultural heritage. It sets a common standard for the protection of such heritage. Its standards are comparable to that granted by other UNESCO Conventions or national legislation on cultural heritage on land, and yet specific to archaeological sites under water. The Convention contains minimum requirements. Each State Party, if it so wishes, may choose to develop even higher standards of protection. Parties to the Convention can be States and certain independent territories (Art. 26).

Main principles of the Convention are:

- 1) *Obligation to Preserve Underwater Cultural Heritage*: States Parties should preserve underwater cultural heritage for the benefit of humanity and take action accordingly. This does not mean that States would necessarily have to undertake archaeological excavations; but they have to take measures according to their capabilities. The Convention encourages scientific research and public access.
- 2) *In situ Preservation as a Preferred Option*: The *in situ* preservation of underwater cultural heritage (i.e. in its original location) should be considered as the first and preferred option before allowing or engaging in any activities directed at this heritage. The recovery of objects may, however, be authorized for the purpose of making a significant contribution to the protection of, or knowledge about, underwater cultural heritage.
- 3) *Refusal of Commercial Exploitation*: The Convention stipulates that underwater cultural heritage should not be commercially exploited for trade or speculation, and that it should not be irretrievably dispersed¹. This regulation is in conformity with the moral principles that already apply to cultural heritage on land. This is not to be understood as preventing archaeological research or public access, which is expressly encouraged by the Convention.
- 4) *Training and Information Sharing*: One of the major handicaps for the protection of heritage located under water is the fact that underwater archaeology is a very recent science. Many States do not yet have sufficiently trained underwater archaeologists. The Convention therefore encourages training in underwater archaeology, the transfer of technologies and the sharing of information.

The Convention neither intends to change the regulations of UNCLOS nor does it regulate the ownership of cultural property.

The main organ of the Convention is its **Meeting of States Parties**. The Director-General of UNESCO convenes an ordinary session of the Meeting at least once every two years. At the request of a majority of States Parties, an additional extra-ordinary Meeting of States Parties will be convened. The Meeting of States Parties was convened twice in 2009 in order to allow a rapid implementation of the Convention. The Meeting of States Parties is currently elaborating,

¹ As regards the existing salvage law and the law of finds, the Convention specifies in its Article 4 that they shall not apply to activities relating to underwater cultural heritage, unless these activities are authorized by competent authorities, are in full conformity with the Convention, and the greatest possible protection can be ensured for recovered objects.

by the means of a working group and based on a Secretariat draft, the Operational Guidelines for the UNESCO 2001 Convention. It will meet next in 2011 to discuss the resulting draft.

The Meeting's subsidiary body is the **Scientific and Technical Advisory Body**, which has been established and its first eleven members elected in 2009. It will usually meet once a year. Its first session is scheduled to take place in 2010 in Cartagena, Spain. The Advisory Body will report on its activities at each Meeting of States Parties.

A State Party may nominate an expert for elections to represent it in the Advisory Body. Such experts shall have a scientific, professional and ethical background at the national and/or international level, in particular, in the field of underwater archaeology, international law, materials science (metallurgy, archaeo-biology, geology), and conservation of underwater cultural heritage sites and/or archaeological underwater artefacts.

Among others, the Advisory Body:

- 1) assists the Meeting of States Parties to the Convention in questions of a scientific or technical nature regarding the implementation of the 'Rules concerning activities directed at underwater cultural heritage' (the Annex of the Convention), which are of high importance to site managers and the discipline of underwater archaeology;
- 2) shall develop best practice in underwater archaeology, which includes among others its economic valorization by public access, marine parks and underwater museums;
- 3) may be consulted for the elaboration, in consultation with the Bureau of the Meeting of States Parties, of draft Operational Guidelines directly related to the Rules;
- 4) gives guidance in questions directly related to Rules in the framework of the practical application of the State cooperation mechanism contained in the Convention (Articles 8 to 13).

The main challenge for UNESCO's future work is to increase ratifications of the UNESCO 2001 Convention and to elaborate an effective tool to implement it. This concerns in particular the implementation of the State cooperation system concerning heritage found in the EEZ and the Area.

UNESCO organizes in the biennium 2010/2011 several regional meetings in its Members States to inform about the content and the implications of the UNESCO 2001 Convention and the need to legally and operationally protect underwater cultural heritage.

III. Building capacity in underwater archaeology in Member States

UNESCO builds capacity to effectively protect and research underwater cultural heritage. It also disseminates and facilitates the implementation of the standards of the UNESCO 2001 Convention.

For this purpose UNESCO has for the biennium 2010-2011 four **training courses in underwater archaeology** planned (in Poland, Spain, Thailand and Mexico). They will take from two weeks to two months.

UNESCO also elaborates **internationally applicable training materials** for underwater archaeology. It will be made available as publication and via Internet in the form of an E-Learning. It shall improve the implementation of the high-level professional standards of the UNESCO 2001 Convention.

To foster the *in situ* presentation of underwater cultural heritage UNESCO will furthermore organize in 2010, in cooperation with the Chinese authorities, a meeting on **underwater museums** in Baiheliang, China, where the first such museum is under construction. UNESCO also advises in the feasibility study for the construction of an underwater museum in the Bay of Alexandria, where the remains of Cleopatra's palace and of the Pharos of Alexandria, one of the seven ancient Wonders of the World, have been found.

IV. Raising the awareness of underwater cultural heritage in the public

To increase the awareness of the public at large of the need to protect underwater cultural heritage UNESCO constructed a multi-language Website with statutory and general public parts, featuring image galleries, a film, E-learning tools and much information on underwater cultural heritage. This page is in further development.

UNESCO has also entered into an agreement with a film producer to elaborate children cartoons on underwater heritage protection to be shown to youth on major public channels.

Further visibility actions are in negotiation.

Detailed information material on UNESCO's action to protect the underwater cultural heritage is available under www.unesco.org/en/underwater-cultural-heritage.

- Brochure: www.unesco.org/culture/underwater/infokit_en
- Film: www.unesco.org/en/underwater-cultural-heritage/resources-services/video
- FAQ: www.unesco.org/culture/underwater/faq-en/